U.S. Senate Republican Policy Committee

Larry E. Craig, Chairman
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No. 7

Legislative Notice

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April 20, 1999

S. 557 — Creating A Social Security "Lock Box" And Determining Emergency Designations as Part of the Budget Process

Calendar No. 89

Reported from the Committee on Governmental Affairs, without amendment on March 8, 1999 (S. Rept. 106-14, additional views filed); on April 12, 1999, the bill was discharged from the Committee on the Budget, and placed on the Calendar.

NOTEWORTHY

- By unanimous consent, the Senate will proceed to the consideration of S. 557 today. It is anticipated that bill managers will offer *a perfecting amendment.* This amendment, prepared by Senators Abraham and Domenici, is known as the "Social Security lock box" legislation (and is formally titled "The Social Security Surplus Preservation and Debt Reduction Act"). The Leader is expected to immediately file cloture on the bill, and this will ripen and come to a vote on Thursday.

- S. 557, as reported, is entitled "Providing Guidance for the Designation of Emergencies as a Part of the Budget Process." The purpose of this underlying bill is to curb the abuse of designating provisions of legislation as an "emergency" in order to circumvent budget laws. Note that similar language to S. 557 was added to and passed as part of S. Con. Res. 20, the Concurrent Budget Resolution for FY 2000 (passed in conference as H. Con. Res. 68 on April 15, 1999). For further details on this budget process reform, see RPC's Legislative Notice No. 5, and S. Rept. 106-14. Because no report exists for the "lock box" language, the remainder of this Notice devotes itself to this part of the bill.

- The "lock box" language has not been introduced as separate legislation. However, it does have the support of the Republican conference and language supporting the lock box concept was included as a Sense of Congress provision in the budget resolution (Section 301 of the conference report to the Concurrent Budget Resolution, H. Con. Res. 68).

- Because the vehicle, S. 557, was discharged out of Budget Committee, a Budget Act Section 306 point of order will not apply against the bill as amended.

HIGHLIGHTS

NOTE: This Legislative Notice largely devotes itself to the perfecting amendment, known as the "Social Security lock box" legislation. Consult S. Rept. 106-14 for a discussion of the reported bill.

- Despite the President's pledge to save every cent of the surplus for Social Security in his 1998 State of the Union address, his FY 2000 budget request has proceeded to use $158 billion from the Social Security surplus for non-Social Security spending during the next five years.

- The Social Security "lock box" effectively prohibits the President's raid on Social Security, while still allowing for federal money management flexibility in the event of unforeseen emergencies (such as war and recession) and for normal Treasury debt operations.

BACKGROUND

According to Congressional Budget Office (CBO) estimates, Social Security is projected to run surpluses (payroll tax revenues and interest payments in excess of the program's outlays) of approximately $1.8 trillion over the next 10 years. The "lock box" legislation is designed to guarantee that all this surplus Social Security money will be reserved for Social Security alone.

BILL PROVISIONS

- The bill as amended contains a series of findings that underscore the importance of insuring the Social Security surpluses for Social Security alone.

- The bill as amended restates Social Security's off-budget status — a status it currently holds for official budget purposes.

- The president is required to submit a budget that does not include using the Social Security surplus for non-Social Security purposes.

- The proposal institutes a 60-vote point of order in the Senate that will limit the ability of Congress to pass budget resolutions that use portions of the Social Security trust fund for non-Social Security purposes. A point of order would also apply against legislation that increased the newly instituted public debt limit (see below) *except* under the following specific instances:

  — In the event of a declaration of war;

  — In the event of a recession;

  — In the event of an emergency, as agreed to by the President and Congress.

- In addition to the 60-vote point of order (see above), the bill as amended would institute a limit on the debt held by the public (similar to the current statutory limit on overall government debt — that is, debt held by the public and by government trust funds).

- The new public debt limit would decline by the amount of projected Social Security surpluses. The public debt limit would be suspended in the following specific instances:

  — In the event of a declaration of war; and

  — In the event of a recession (two quarters of less than 1 percent real GDP growth).

- The new public debt limits would also be adjusted under the following circumstances:

  — In the event and by the amount that actual Social Security surpluses differ from projections; and

  — In the event that Social Security reform legislation is enacted and a debt limit change is in order.

  — In the event of an emergency (as agreed to by the President and Congress and defined under the Budget Act), if such emergency money must come from the Social Security surplus. Meanwhile, the use of non-Social Security (that is, on-budget) surplus money would not require an adjustment of the new public debt limit.

- S. 557 would also establish a procedure for designating a provision (spending or tax cut) as an emergency. A potential emergency provision would have to meet five criteria — as to its essential, sudden, urgent, unforseen, and temporary nature— in order to receive an emergency designation. If a point of order is raised and the chair rules that a provision fails to meet one of these five criteria, then its emergency designation and the provision in question will be stricken.

  — An emergency designation would exempt the provision from the current spending restraints (discretionary spending caps or pay-go requirements).

— An emergency designation would also exempt the provision from the "lock box" and would result in the public debt limit being adjusted to take into account the emergency provision.

— 60 votes would be required to waive a point of order made against non-defense emergencies, while 51 votes would be required to waive a defense provision.

- The new public debt limits would first become effective beginning on May 1, 2000 (and would run through April 30 of the next deadline) and would be: $3.628 trillion in FY 2000; $3.512 trillion in FY 2001; $3.383 trillion over the FY 2002-2003 period; $3.1 trillion over the FY 2004-2005 period; $2.775 trillion over the FY 2006-2007 period; and $2.404 trillion over the FY 2008-2009 period. The May 1 through April 30 period for each particular debt limit increment will provide flexibility for routine cash management by Treasury.

- The new public debt limit and the relevant points of order will sunset following FY 2009 — in agreement with the time period of the just-passed concurrent budget resolution.

ADMINISTRATION POSITION

The Secretary of the Treasury in a letter of March 17, 1999, has recommended that the President veto the legislation. This position was based on the Secretary's belief that the proposal (in its form as of March 17) would limit his ability to manage debt in the event of recession and in the normal deficit periods that occur during the course of every fiscal year (because federal revenues flow into the Treasury unevenly — for example, April is a high surplus month). However, the proposal has been modified with the intent of addressing these concerns (see above description).

- In regard to restricting the Treasury's ability to manage debt, it should be noted that the current statutory limit on overall government debt also amounts to the same constriction.

- The current statutory debt limit may be found at 31 U.S.C. 3101(b) (1994 edition). The provision was derived from the Second Liberty Bond Act, Pub. L. 65-43, Sept. 24, 1917, 40 Stat. 288, as amended.

- Under the Treasury's logic, the Administration evidently should be opposed to the institution of any debt limit — statutory, public debt, or otherwise.

COST

The legislation will have no cost. However, by requiring that the entire Social Security surplus be reserved for Social Security alone, the effect will be that this money will be used to pay down the public debt. This public debt buy-down will result in substantial interest savings. According to CBO, in comparison to not using the $1.8 trillion to buy down the public debt, the buy-down will result in $96 billion in interest payment savings from 2000-2004, and in $468 billion in savings over the next 10 years.

POSSIBLE AMENDMENTS

Not available at press time.

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